



Los Angeles County
Department of Regional Planning


Planning for the Challenges Ahead



Richard J. Bruckner
Director

October 6, 2016

TO: Hearing Officer

FROM: Steve Mar 
Zoning Permits East Section

SUBJECT: Project No. R2013-03298-(4)
Conditional Use Permit No. 201300164
HO Meeting: October 18, 2016
Agenda Item: 13

The above-mentioned item is a request to authorize the sale of full-line alcohol for on-site consumption at a new restaurant ("NYC Lounge") in an existing shopping center in the unincorporated community of Rowland Heights.

Staff has prepared findings for denial for the case as instructed by the Hearing Officer at the September 20, 2016, Hearing Officer meeting.

Staff has also been informed by the applicant that they are willing to change their floor plan and business operations to operate as a restaurant as opposed to a bar. At the Hearing Officer's discretion, staff recommends a continuance to allow the applicant time to draft a new floor plan, have an occupancy load determination be approved by Building and Safety, and to review and approve a new site plan review application.

If you need further information, please contact Steve Mar at (213) 974-6435 or smar@planning.lacounty.gov. Department office hours are Monday through Thursday from 7:00 a.m. to 6:00 p.m. The Department is closed on Fridays.

SUGGESTED MOTION (DENIAL):

I, THE HEARING OFFICER, CLOSE THE PUBLIC HEARING AND DENY CONDITIONAL USE PERMIT NO. 201300164 SUBJECT TO THE ATTACHED FINDINGS.

SUGGESTED MOTION (CONTINUANCE):

I, THE HEARING OFFICER, MOVE TO CONTINUE THE PUBLIC HEARING TO [A DATE TO BE DETERMINED AT THE HEARING].

MM:SM

**[DRAFT] FINDINGS OF THE HEARING OFFICER
AND ORDER
COUNTY OF LOS ANGELES
PROJECT NO. R2013-03298-(4)
CONDITIONAL USE PERMIT NO. 201300164**

1. The Los Angeles County ("County") Hearing Officer conducted a duly-noticed public hearing in the matter of Conditional Use Permit No. 201300164 ("CUP") on January 20, 2015, February 3, 2015, April 21, 2015, June 16, 2015, September 20, 2016, and October 18, 2016.
2. The permittee, NYC Lounge ("permittee"), requests the CUP to authorize a Type 47 license (full line alcohol for on-site consumption) at a new restaurant ("NYC Lounge") ("Project") at an existing shopping center (Pearl of the East Plaza) located at 18888 Labin Court in the unincorporated community of Rowland Heights ("Project Site") in the C-3-BE Zone pursuant to Los Angeles County Code ("County Code") Section 22.28.210.
3. The Project Site is 5.9 acres in size and consists of one legal lot. The Project Site is semi-rectangular in shape with flat topography and is developed with two (2) two-story multi-tenant retail/office buildings and one four-story parking structure.
4. The Project Site is located in the Puente Zoned District and is currently zoned C-3-BE (Unlimited Commercial – Billboard Exclusion).
5. The Project Site is located within the C (Commercial) land use category of the Rowland Heights Community Plan Land Use Policy Map.
6. Surrounding Zoning within a 500-foot radius includes:
 - North: M-1.5-BE (Restricted Heavy Manufacturing – Billboard Exclusion)
 - South: C-3-BE (Unlimited Commercial – Billboard Exclusion)
 - East: C-3-BE (Unlimited Commercial – Billboard Exclusion), C-3 (Unlimited Commercial), A-1-6,000 (Light Agricultural – 6,000-sq.-ft. Minimum Lot Size)
 - West: R-3-12U (Limited Multiple Residence – 12 du/ac Maximum Density)
7. Surrounding land uses within a 500-foot radius include:
 - North: SR-60 Freeway (Pomona Freeway), Motel, Shopping Center
 - South: Golf Driving Range
 - East: Motel, Restaurant, Commercial, Automobile Repair, Single-Family Residences
 - West: Mobile Home Community
8. The Project Site was zoned A-1-10,000 on May 25, 1948. The Project site was rezoned to C-3 on May 11, 1965, and rezoned to C-3-BE on May 25, 1980.

On July 23, 2009, Plot Plan No. 200800405 approved the construction of the existing retail/office buildings. On March 7, 2012, Plot Plan No. 201000980 approved the construction of a new four-level parking structure for the retail/office buildings. On July 26, 2016, Plot Plan No. 201500292 approved an updated parking plan with 386 on-surface parking spaces and 244 parking spaces within the parking structure, for a total of 630 parking spaces (552 parking spaces required at the time of Project approval based on tenant makeup). Several plot plan and conditional use permit cases on the site have been

approved for businesses located in the shopping center to authorize tenant improvements for restaurants and other businesses and to authorize the sale of on-site beer and wine sales at these on-site restaurants.

9. The site plan for the Project depicts the Project Site with two office/retail buildings, surface parking lot areas, and a four-story parking structure. The proposed Project would be located in Unit C209 consisting of 2,988 square feet of floor space and an occupancy load of 66 persons. Patrons of the restaurant would be accommodated in a main dining area and a bar area.
10. The Project Site is accessible via Labin Court to the south. Primary access to the Project Site will be via an entrance/exit on Labin Court. The Project does not provide any secondary access to the Project Site.
11. The Project provides 630 parking spaces on surface parking lots and in a four-story parking structure. The site requires 552 parking spaces based on the tenant makeup at the time of approval of Plot Plan No. 201500292 and provides adequate parking. The Project would have had an occupancy load of 66 persons, as approved by the County Department of Public Works ("Public Works"), and would require 22 parking spaces.
12. The County of Los Angeles Sheriff's Department's Walnut/Diamond Bar Station researched the crimes database for the subject property and found only a few calls for service at the project site due to its relatively new construction. According to the Sheriff's report, the calls for service include alarm activations, one vehicle theft report, and a few disorderly patrons. The Sheriff's Department had no issues with granting the conditional use permit to authorize the sale of alcoholic beverages for on-site consumption at the proposed establishment and recommended the installation of security alarms and installing security cameras inside the proposed establishment and outside facing any adjacent parking areas.
13. Statistical data from the California Department of Alcoholic Beverage Control (ABC) report that the site of the subject request is located in a high crime reporting district, defined by having a 20 percent greater number of reported crimes than the average number of reported crimes in the Reporting District. The subject property is located in Reporting District #2931. The average number of offenses reported per district is 85.7 and the total number of crimes reported for District #2931 is 303.

The subject property lies within Census Tract 4082.11. There are currently 67 existing alcohol licenses in this census tract and five licenses are allowed. Therefore an undue concentration of alcoholic beverage licenses will exist within Census Tract 4082.11 if the projects are approved. Although this would constitute an undue concentration, the sale of alcoholic beverages for on-site consumption would serve as a public convenience and necessity to the surrounding community by providing a service that is consistent with other
14. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the Zoning Code, the community was appropriately notified of the Project's public hearings by mail, newspaper, and property posting.
15. Staff has received 13 letters in opposition to the Type 47 on-site full line alcohol service proposed by the applicant. All 13 letters of opposition are identical, dated December 19, 2014, and come from residents who live in the Rowland Heights Mobile Estate Park adjacent to the Pearl of the East Plaza.

16. Prior to the Hearing Officer's public hearing, the Rowland Heights Community Coordinating Council reviewed the application and recommended that the subject establishment be allowed to serve alcoholic beverages up to one hour before their normal closing time.
17. A duly noticed public hearing was held on January 20, 2015, before the Hearing Officer. The Hearing Officer continued the hearing to February 3, 2015 due to a clerical error in the public hearing notice mailing list.

A duly noticed public hearing was held on February 3, 2015, before the Hearing Officer. The Hearing Officer continued the hearing to April 21, 2015, due to open zoning violations and parking issues on the subject site.

A duly noticed public hearing was held on April 21, 2015, before the Hearing Officer. The Hearing Officer continued the hearing to June 16, 2015, due to open zoning violations and parking issues on the subject site.

A duly noticed public hearing was held on June 16, 2015, before the Hearing Officer. The Hearing Officer took the case off-calendar due to open zoning violations and parking issues on the subject site.

A duly noticed public hearing was held on September 20, 2016, before the Hearing Officer. Hearing Officer Gina Natoli was present for the hearing. The applicant's representative, Monica Wu, was present and answered questions from Ms. Natoli. Ms. Natoli expressed concerns about the undue concentration of alcohol-selling businesses in the area. Ms. Natoli stated that there was a discrepancy between the Building & Safety approved occupancy load of 66 persons, the occupancy load of 81 persons as depicted on the project's floor plan, and the depiction of seating for approximately 110 persons. Ms. Natoli also gave her observation that according to the floor plan layout of two bar areas, 24 dining seats with six tables, 41 barstools around the two bar areas, and nine booths seating for 45 persons, and due to a site visit to the establishment, the business appeared to be a bar and not a restaurant. Ms. Natoli stated that the finding of public convenience and necessity for a bar to sell alcohol is different than a restaurant that wishes to sell alcohol. The sale of alcohol is an ancillary service to food sales at a restaurant whereas alcohol sales would be the primary service at a bar. Due to an undue concentration of eight nearby restaurants that serve on-site alcohol the project does not meet the finding of public convenience or necessity to justify the sales of alcohol at a bar. Ms. Natoli closed the public hearing, moved to deny the project, and directed staff to prepare findings for denial to be considered on October 18, 2016.

18. The Hearing Officer finds that the Project Site is located within the C – Commercial land use category of the Rowland Heights Community Plan. This land use designation is intended for retail commercial, service, and office uses. The sale of alcoholic beverages for on-site consumption at a restaurant is consistent with the permitted uses of the underlying land use category.
19. The Hearing Officer finds that the Project complies with the zoning and development standards prescribed in the C-3 Zone and in the Rowland Heights Community Standards District. Alcoholic beverage sales is a permitted use in the C-3 Zone once a CUP is obtained. However, the project is located in an area of undue concentration of other businesses that sell alcohol under County Code. There are eight other establishments within a 500-foot radius of the subject property that sell alcohol. These licenses include seven Type 41 licenses for on-site beer and wine sales and one Type 47 license for on-site

general alcohol sales. The addition of another establishment that sells alcohol within an area of undue concentration may be allowed if a finding of public convenience and necessity can be made.

20. The Hearing Officer finds that the subject property is situated adjacent to the 60 Pomona Freeway to the north, commercial uses to the east, open space (golf driving range) to the south, and a mobile home community to the west. A 74-foot setback (which exceeds the 30-foot 9-inch setback required by the CSD) separates the commercial center from the neighboring mobile home community. All tenant spaces are oriented toward the interior courtyard of the commercial center or toward the eastern property boundary. There are no tenant spaces oriented toward the western property boundary, facing the mobile home community.
21. The Hearing Officer finds that development on the subject property was established through previous zoning approvals and meets all development standards of the County Code.
22. The Hearing Officer finds that the site is serviced by one access point for ingress/egress off of Labin Court, a fully-improved public right-of-way.
23. The Hearing Officer finds that the subject property is not located within a 600-foot radius of any identified sensitive uses, which means a place used exclusively for religious worship, school, park, playground, or any similar use.
24. The Hearing Officer finds that there are no tenant spaces oriented toward the western property boundary, facing the mobile home community.
25. The Hearing Officer finds that currently there are eight (8) other establishments within 500 feet of the subject property that sell alcoholic beverages. All eight establishments are restaurants that sell alcoholic beverages for on-site consumption. Therefore, an undue concentration of alcohol-serving establishments exists at the project site. A finding of public convenience and necessity cannot be made since the establishment is set up to operate as a bar with alcohol sales as the primary service and not as a restaurant where alcohol sales would be an ancillary service to food sales. The public convenience for alcoholic beverages is already served by the existing eight restaurants in the area that serve alcohol and the addition of a bar with full-line alcohol sales does not provide a public necessity.
26. The Hearing Officer finds that the proposed sale of alcoholic beverages at a bar establishment has the potential for negative economic repercussions to nearby restaurants and to the surrounding community.
27. The Hearing Officer finds that there is no proposed work to be done on the exterior of the structure.
28. The Hearing Officer finds that pursuant to Sections 22.60.174 and 22.60.175 of the County Code, the community was properly notified of the public hearing by mail, newspaper, and property posting. Additionally, the Project was noticed and case materials were available on Regional Planning's website and at libraries located in the vicinity of the Rowland Heights community. On August 10, 2016, a total of 24 Notices of Public Hearing were mailed to all property owners as identified on the County Assessor's record within a 500-foot radius from the Project Site, as well as 13 notices to those on the courtesy mailing list for the Puente Zoned District and to any additional interested parties.

29. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits East Section, Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES THAT:

- A. The requested use at the proposed location will result in an undue concentration of similar premises and an additional facility selling alcoholic beverages for on-site consumption would not serve a public convenience and necessity to the surrounding community.
- B. The requested use at the proposed location has the potential to adversely affect the economic welfare of the surrounding community.

THEREFORE, THE HEARING OFFICER:

Denies Conditional Use Permit No. 201300164.

ACTION DATE: October 18, 2016

MM:SM
10/18/16

c: Hearing Officer, Zoning Enforcement, Building and Safety